

Message Text

CONFIDENTIAL

PAGE 01 BANGKO 10553 271218Z

53

ACTION EA-14

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C O N F I D E N T I A L BANGKOK 10553

E.O. 11652: GDS

TAGS: MARR, TH

SUBJECT: TAX EXEMPTION FOR US MILITARY CONTRACTS IN THAILAND

REFS: (A) STATE 122742; (B) BANGKOK 10223; (C) STATE 135430;
(D) BANGKOK 9629

1. AMBASSADOR'S MEETING WITH ACTING SUPREME COMMANDER, ACM THAWI CHUNLASAP, (REF B) PROVIDED USG WITH THE OPTION OF SUBMITTING THE ENTIRE ISSUE OF TAX EXEMPTION FOR US MILITARY CONTRACTS IN THAILAND TO THE NEW RTG CABINET. WE ARE RELUCTANT TO RECOMMEND THIS COURSE OF ACTION IN VIEW OF MARSHAL THAWI'S REITERATED CAUTIONS. WE WOULD BE DEALING WITH MINISTERS WHO ARE NOT FAMILIAR WITH THE HISTORICAL BACKGROUND OF THIS SUBJECT, NOR SHOULD WE EXPECT VTJAU;DEAINET TO BE WILLING TO TAKE AN UNPOPULAR DECISION ON TAX EXEMPTIONS FOR US CONTRACTORS IN THE CURRENT POLITICAL ATMOSPHERE OF PUBLIC DEBATE OVER THE US PRESENCE. REVIEW BY THE NEW CABINET COULD, IN FACT, REDUCE OUR FLEXIBILITY IN NEGOTIATING THE COMPROMISES ALREADY AGREED BY SUPREME COMMAND.

CONFIDENTIAL

CONFIDENTIAL

PAGE 02 BANGKO 10553 271218Z

2. GENERWEPVOTCXZILYPAJUGC25#SPECIFICALLY DISCUSSED THE

VISA PROBLEMS BEYOND JULY 15 FOR EXISTING "TECH REP" AND SERVICE CONTRACT PERSONNEL WITH GENERAL WXVVTYIBQNZRMANAN. KRIANGSAK EXPRESSED CONFIDENCE THAT THE SUPREME COMMAND COULD ARRANGE A SIX MONTH IMMIGRATION EXTENSION FOR THE SERVICE CONTRACT EMPLOYEES AND THE NORMAL ONE YEAR RESIDENT PERMIT FOR THE "TECH REPS".

3. GENERAL KRIANGSAK ALSO TOLD GENERAL MELLEN THAT SUPREME COMMAND HAD TO REPORT THE AMBASSADOR'S MEETING WITH ACM THAWI "UP THE MOD CHANNEL" AND CONSIDER A RESPONSE TO THE AMBASSADOR'S REQUEST FOR AMUTUALLY AGREED UPON SOLUTION. ONE POSSIBILITY COULD BE ALONG THE LINES OF THE THAI/AM JOINT VENTURE AGREEMENT TAKING OVER FROM AIR AMERICA SINCE WE HAVE ALREADY RECEIVED AN OFFER FROM THAI/AM ENDORSED TO COMUSMACTHAI BY SUPREME COMMAND. THE JOINT VENTURE PROPOSED OF COURSE AUTOMATICALLY SUBJECTS THE CONTRACTORS TO THAI TAXATION.

4. TO PRESERVE ESSENTIAL BASE MAINTENANCE FACILITIES SUPPORT, THERE HAS BEEN NO OPTION AVAILABLE TO MACTHAI OTHER THAN TO RENEW CONTRACTS WITH TRANSASIA AND AMPAC FOR A FURTHER PERIOD. ONE YEAR RENEWALS ARE THEREFORE BEING SIGNED PRIOR JUNE 30; THESE CONTAIN STANDARD PROVISIONS FOR CANCELLATION AT THE CONVENIENCE OF THE GOVERNMENT AND FOR RENEGOTIATION, BUT OBVIOUSLY PENALTIES AND ADDITIONAL COSTS WILL BE INVOLVED IN EVENTUAL RENEGOTIATION OR CANCELLATION TO MEET THE TERMS FINALLY AGREED WITH THE RTG.

5. THE US BY RAISING THE QUESTION OF TAX EXEMPTION HAS CAUSED RTG SUPREME COMMAND TO REAFFIRM THEIR PREVIOUSLY ACKNOWLEDGED WILLINGNESS TO BE FLEXIBLE IN TERMS OF TIMING AND CONDITIONS UNDER THE TERMS OF THE EARLIER CABINET DECISION. WE CONSIDER THAT WE HAVE FOUR PRINCIPAL OPTIONS NOW AVAILABLE TO US FOR DISCUSSION WITH RTG:

A) WE CAN FORCE THE ISSUE BACK TO CABINET ON THE TAX EXEMPTION ISSUE. A NEW CABINET DECISION WOULD BE NECESSARY, WHETHER WE GO FOR COMPLETE TAX EXEMPTION, OR SEEK TO FIND A MIDDLE WAY WHEREBY WE WOULD ATTEMPT AGREEMENT THAT WE COMPLY PARTIALLY BUT NOT COMPLETELY

CONFIDENTIAL

PAGE 03 BANGKO 10553 271218Z

WITH THAI TAX LAWS, IN ORDER TO REDUCE ADDED COSTS TO USG AND MAKE CONCESSIONS TO CONGRESSIONAL INTENT. WE DO NOT EXPECT THAT RENEWED DEMANDS FOR SPECIAL PRIVILEGES FOR US PRIVATE CONTRACTORS IN THAILAND WOULD BE DESIRABLE OR PRODUCTIVE SINCE THE MATTER WOULD UNDOUBTEDLY LEAK FROM THE CABINET TO THE STUDENTS AND POLITICIANS WHO ARE LOOKING FOR ISSUES AND HAVE RECENTLY FOCUSED ON SOME POTENTIALLY TROUBLESOME ONES. WE DOUBT THAT THIS OPTION

IS FEASIBLE, BUT WOULD APPRECIATE FOR POSSIBLE EXPLORATION WITH THE RTG BACKGROUND INFORMATION (AS REQUESTED REF D) ON ARRANGEMENTS MADE WITH OTHER COUNTRIES AND SAMPLE LANGUAGE.

B) WE CAN TRY TO STALL THE RTG BY INVOLUTED DISCUSSION IN ORDER TO PRESERVE THE STATUS QUO AND THE PRIVILEGES NOW ENJOYED BY THE BASE FACILITIES CONTRACTORS AS LONG AS POSSIBLE. THIS MIGHT WORK FOR A PERIOD OF MONTHS, BUT WOULD INVITED A STRONG EVENTUAL REACTION AND ENDANGER OUR PRESENT TENUOUS AGREEMENT TO PRESERVE THE TECH REP CONTRACTS FOR THE INDEFINITE FUTURE. THEREFORE WE BELIEVE WE SHOULD NOT USE DELAYING TACTICS, BUT RATHER PROCEED WITH BONA FIDE NEGOTIATIONS IN SEARCH OF A REALISTIC AGREEMENT WITH THE RTG.

C) WE CAN ACCEPT THAT THE PRESENT US CONTRACTORS SHOULD REGISTER AS THAI FIRMS UNDER RTG LAW AND PAY THAI TAXES. THIS WOULD BE ACCEPTABLE TO THE RTG, ACCORDING TO OUR EARLIER TALKS WITH SUPREME COMMAND, AND WOULD PROVIDE A BASIS FOR FIRM AGREEMENT ON THE CONTINUATION OF OTHER TECH REP AND SPECIALIZED CONTRACTORS UNDER EXISTING PRIVILEGES. CONTRACTS WOULD HAVE TO BE RENEGOTIATED TO COVER ADDED COSTS TO CONTRACTORS, AND THIS SOLUTION WOULD REQUIRE EXPLANATION TO CONGRESS TO AVOID INVIDIOUS REACTION. WITHIN THIS OPTION IT IS POSSIBLE WE COULD NEGOTIATE SOME PARTIAL TAX CONCESSION FOR THE USG PAYMENTS TO THE CONTRACTORS, ALTHOUGH SEEKING SUCH PRIVILEGED ARRANGEMENTS WOULD INVITE THE SAME DANGER OF PUBLIC DEBATE NOTED UNDER OPTION A ABOVE.

D) WE EXPECT THE RTG WOULD PREFER OVER THE LONG RUN THE TRANSFER OF CONTRACTS FROM THE PRESENT AMERICAN

CONFIDENTIAL

PAGE 04 BANGKO 10553 271218Z

CONTRACTORS TO THAI FIRMS OR TRUE JOINT VENTURES. WE HAVE RECEIVED A HANDWITTEN ENDORSEMENT FROM GENERAL KRIANGSAK COVERING A LETTER OF OFFER FROM THAI/AM TO MOD OFFERING TO TAKE OVER BASE FACILITIES MAINTENANCE CONTRACTS; HOWEVER WE UNDERSTAND THAT THAI/AM, PRESENTLY BUSY WITH TAKE OVER OF AIR AMERICA MAINTENANCE SHOPS AT UDORN, HAS HAD SECOND THOUGHTS ABOUT BITING OFF ANOTHER BIG MOUTHFUL NOW. THEREFORE, ALTHOUGH SOME THAI WILL SCENT POSSIBILITIES FOR IMMEDIATE PROFIT, WE BELIEVE THAT THIS PRESSURE CAN BE DEFERRED, ALTHOUGH WE SHOULD PLAN FOR EVOLUTION IN THIS DIRECTIONN, PROBABLY BY JULY 1, 1975.

6. SUMMARY: WE HAVE GONE AHEAD TO EXTEND PRESENT CONTRACTS BEYOND JUNE 30 AND HAVE BEEN PROMISED THAT THE RTG WILL LEGALIZE THE CONTRACT EMPLOYEES' PRESENCE IN THAILAND

BEYOND JULY 15 WITH THE REQUIRED VISAS. WE MIGHT BE ABLE TO NEGOTIATE SOME REMISSION OF TAXES BUT THE LIKELY PUBLIC DISCUSSION COULD RAISE ADDITIONAL PROBLEMS REGARDING PRIVILEGES FOR US CONTRACTORS. UNDER THE CIRCUMSTANCES, WE RETURN TO THE FACT THAT ACM THAWI AND GENERAL KRIANGSAK, THE RESPONSIBLE MILITARY AUTHORITIES AND OUR FRIENDLIEST AND MOST KNOWLEDGEABLE CONTACTS IN THE RTG, HAVE POLITELY SAID NO TO OUR TAX EXEMPTION REQUEST. IF WE PURSUE THIS MATTER WITH THE NEW CABINET, WE ARE LIKELY TO RECEIVE A BLUNT AND MORE DAMAGING REFUSAL. WE CONSIDER OUR BEST COURSE IS FOR THE US CONTRACTORS TO REGISTER AND PAY TAXES IN ACCORDANCE WITH THAI LAW, WHILE LAYING THE GROUNDWORK FOR THAI FIRMS PROGRESSIVELY TO TAKE OVER AS MANY OF THE CONTRACTS AS THEY CAN ASSUME FROM THE TECHNICAL AND SECURITY STANDPOINT. WE NEED CLARIFICATION OF THE PARAMETERS OF OUR FLEXIBILITY FOR USE IN OUR NEGOTIATIONS, AND GUIDANCE AS TO HOW OUR EVENTUAL AGREEMENT WITH THE RTG CAN BE MANAGED TO AVOID DIFFICULTIES FROM THE US CONGRESS AFFECTING FOREIGN ASSISTANCE AND OTHER ASPECTS OF US/THAI RELATIONS.

KINTNER

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